

NOTE-THIS PAGE WILL BE REPLACED BY COPY OF SIGNED PAGE

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION VIII
999 18TH STREET, SUITE 500
DENVER, COLORADO 80202-2466

**STORM WATER GENERAL PERMIT FOR CONSTRUCTION
ACTIVITIES**

Indian Country Lands in the State of North Dakota, including that portion of the Standing Rock Reservation located in South Dakota (except for the Lake Traverse Reservation which is covered under South Dakota permit SDR10##I)*

AUTHORIZATION TO DISCHARGE UNDER THE
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

In compliance with the provisions of the Clean Water Act, as amended, (33 U.S.C. 1251 et.seq.), except as provided in Part I.B.3 of this permit, operators of construction activities located in an area specified in Part I.A. and who submit a Notice of Intent in accordance with Part II, are authorized to discharge pollutants to waters of the United States in accordance with the conditions and requirements set forth herein.

This permit shall become effective on **February 17, 1998**

This permit and the authorization to discharge shall expire at midnight, **February 17, 2003**

Signed and issued this 15th day of January, 1998

Authorized Permitting Official

Kerrigan G. Clough, Assistant Regional Administrator
Office of Pollution Prevention, State and Tribal Assistance
Title

NPDES GENERAL PERMIT FOR STORM WATER DISCHARGES FROM CONSTRUCTION ACTIVITIES

TABLE OF CONTENTS

Preface	4
Part I. COVERAGE UNDER THIS PERMIT	4
A. Permit Area	4
B. Eligibility	4
C. Obtaining Authorization	7
D. Terminating Coverage	7
Part II. NOTICE OF INTENT REQUIREMENTS	8
A. Deadlines for Notification	8
B. Contents of Notice of Intent	9
C. Where to Submit	10
Part III. SPECIAL CONDITIONS, MANAGEMENT PRACTICES, AND OTHER NON-NUMERIC LIMITATIONS	11
A. Prohibition on Non-Storm Water Discharges	11
B. Releases in Excess of Reportable Quantities	11
C. Spills	11
D. Discharge Compliance with Water Quality Standards	11
E. Responsibilities of Operators	12
Part IV. STORM WATER POLLUTION PREVENTION PLANS	13
A. Deadlines for Plan Preparation and Compliance	13
B. Signature, Plan Review and Making Plans Available	13
C. Keeping Plans Current	14
D. Contents of Plan	14
Part V. RETENTION OF RECORDS	21
A. Documents	21
B. Accessibility	21
C. Addresses	21
Part VI. STANDARD PERMIT CONDITIONS	22
A. Duty to Comply	22
B. Continuation of the Expired General Permit	23
C. Need to Halt or Reduce Activity not a Defense	23
D. Duty to Mitigate	23
E. Duty to Provide Information.	23
F. Other Information	23
G. Signatory Requirements	23
H. Penalties for Falsification of Reports	25
I. Oil and Hazardous Substance Liability	25
J. Property Rights	25
K. Severability	25
L. Requiring an Individual Permit or an Alternative General Permit	25
M. State/Tribal Environmental Laws	26

Part VI. STANDARD PERMIT CONDITIONS (Continued)

 N. Proper Operation and Maintenance 26

 O. Inspection and Entry 26

 P. Permit Actions 26

Part VII. REOPENER CLAUSE 26

Part VIII. TERMINATION OF COVERAGE 27

 A. Notice of Termination 27

 B. Addresses 27

Part IX. DEFINITIONS 28

ADDENDA

 A. ENDANGERED SPECIES 31

 B. HISTORIC PROPERTIES (RESERVED) 44

 C. NOTICE OF INTENT (NOI) FORM 45

 D. NOTICE OF TERMINATION (NOT) FORM 47

Preface

EPA's reissued construction general permits (CGP) were published in the Federal Register on February 17, 1998 (see 63 FR 7857). That document included the conditions for 38 separate permits involving 7 different Regions of EPA. Seven of those permits involve EPA Region VIII and this permit is one of them. In order to make this permit easier to read and understand, it has been reformatted from the style used in the Federal Register and limited to conditions and information that only apply to the area covered by this permit. References, conditions and information pertaining to all other Regions, States and Tribes that were included in the Federal Register, but not applicable to the areas covered by this permit, were removed. The conditions in this permit mimic the permits published in the Federal Register in all other ways. Persons that want CGP information for areas not covered by this permit should refer to the February 17, 1998 Federal Register or one of the other permits prepared by EPA Region VIII.

Part I. COVERAGE UNDER THIS PERMIT

A. Permit Area.

Indian Country lands in the State of North Dakota, including that portion of the Standing Rock Reservation located in South Dakota (except for the Lake Traverse Reservation which is covered under South Dakota permit SDR10*##I).

B. Eligibility.

1. Permittees are authorized to discharge pollutants in storm water runoff associated with construction activities as defined in 40 CFR 122.26(b)(14)(x) and those construction site discharges designated by the Director as needing a storm water permit under 122.26(a)(1)(v) or under 122.26(a)(9) and 122.26(g)(1)(i). Discharges identified under Part I.B.3 are excluded from coverage. Any discharge authorized by a different NPDES permit may be commingled with discharges authorized by this permit.
2. This permit also authorizes storm water discharges from support activities (e.g., concrete or asphalt batch plants, equipment staging yards, material storage areas, excavated material disposal areas, borrow areas) provided:
 - a. the support activity is directly related to a construction site that is required to have NPDES permit coverage for discharges of storm water associated with construction activity;
 - b. the support activity is not a commercial operation serving multiple unrelated construction projects by different operators, and does not operate beyond the completion of the construction activity at the last construction project it supports; and
 - c. appropriate controls and measures are identified in a storm water pollution prevention plan covering the discharges from the support activity areas.

3. Limitations on Coverage.

- a. Post Construction Discharges. This permit does not authorize storm water discharges that originate from the site after construction activities have been completed and the site, including any temporary support activity site, has undergone final stabilization. Industrial post-construction storm water discharges may need to be covered by a separate NPDES permit.
- b. Discharges Mixed with Non-Storm Water. This permit does not authorize discharges that are mixed with sources of non-storm water, other than those discharges which are identified in Part III.A.2. or 3. (exceptions to prohibition on non-storm water discharges) and are in compliance with Part IV.D.5 (non-storm water discharges).
- c. Discharges Covered by Another Permit. This permit does not authorize storm water discharges associated with construction activity that have been covered under an individual permit or required to obtain coverage under an alternative general permit in accordance with Part VI.L.
- d. Discharges Threatening Water Quality. This permit does not authorize storm water discharges from construction sites that the Director (EPA) determines will cause, or have reasonable potential to cause or contribute to, violations of water quality standards. Where such determinations have been made, the Director may notify the operator(s) that an individual permit application is necessary in accordance with Part VI.L. However, the Director may authorize coverage under this permit after appropriate controls and implementation procedures designed to bring the discharges into compliance with water quality standards have been included in the storm water pollution prevention plan;
- e. Storm water discharges and storm water discharge-related activities that are not protective of Federally listed endangered and threatened ("listed") species or designated critical habitat ("critical habitat").
 - (1) For the purposes of complying with the Part I.B.3.e. eligibility requirements, "storm water discharge-related activities" include:
 - (a) activities which cause, contribute to, or result in point source storm water pollutant discharges, including but not limited to: excavation, site development, grading and other surface disturbance activities; and
 - (b) measures to control storm water including the siting, construction and operation of best management practices (BMPs) to control, reduce or prevent storm water pollution.
 - (2) Coverage under this permit is available only if the applicant certifies that it meets at least one of the criteria in paragraphs (a)-(d) below. Failure to continue to meet one of these criteria during the term of the permit will render a permittee ineligible for coverage under this permit.
 - (a) The storm water discharges and storm water discharge-related activities are not likely to adversely affect listed species or critical habitat; or
 - (b) Formal or informal consultation with the Fish and Wildlife Service and/or the National Marine Fisheries Service (the "Services") under section 7 of the Endangered Species Act (ESA) has been concluded which addresses the effects of the applicant's storm water discharges and storm water discharge-related activities on listed species and critical

3. Limitations on Coverage. (Continued)

habitat and the consultation results in either a no jeopardy opinion or a written concurrence by the Service(s) on a finding that the applicant's storm water discharges and storm water discharge-related activities are not likely to adversely affect listed species or critical habitat. A section 7 consultation may occur in the context of another Federal action (e.g., a ESA section 7 consultation was performed for issuance of a wetlands dredge and fill permit for the project, or as part of a National Environmental Policy Act (NEPA) review); or

- (c) The applicant's construction activities are authorized under section 10 of the ESA and that authorization addresses the effects of the applicant's storm water discharges and storm water discharge-related activities on listed species and critical habitat; or
- (d) The applicant's storm water discharges and storm water discharge-related activities were already addressed in another operator's certification of eligibility under Part I.B.3.e.(2)(a), (b), or (c) which included the applicant's project area. By certifying eligibility under Part I.B.3.e.(2)(d), the applicant agrees to comply with any measures or controls upon which the other operator's certification under Part I.B.3.e.(2)(a), (b) or (c) was based.

- (3) All applicants must follow the procedures provided at Addendum A of this permit when applying for permit coverage.
- (4) The applicant must comply with any applicable terms, conditions or other requirements developed in the process of meeting eligibility requirements of Part I.B.3.e.(2)(a), (b), (c), or (d) above to remain eligible for coverage under this permit. Such terms and conditions must be incorporated in the applicant's storm water pollution prevention plan.
- (5) Applicants who choose to conduct informal consultation to meet the eligibility requirements of Part I.B.3.e.(2)(b) are automatically designated as non-Federal representatives under this permit. See 50 CFR 402.08. Applicants who choose to conduct informal consultation as a non-Federal representatives must notify EPA and the appropriate Service office in writing of that decision.
- (6) This permit does not authorize any storm water discharges where the discharges or storm water discharge-related activities cause prohibited "take" (as defined under section 3 of the Endangered Species Act and 50 CFR 17.3) of endangered or threatened species unless such takes are authorized under sections 7 or 10 of the Endangered Species Act.
- (7) This permit does not authorize any storm water discharges where the discharges or storm water discharge-related activities are likely to jeopardize the continued existence of any species that are listed or proposed to be listed as endangered or threatened under the ESA or result in the adverse modification or destruction of habitat that is designated or proposed to be designated as critical under the ESA.

- f. Storm water Discharges and Storm Water Discharge-Related Activities with Unconsidered Adverse Effects on Historic Properties. (Reserved)

C. Obtaining Authorization.

1. In order for storm water discharges from construction activities to be authorized under this general permit, an operator must:
 - a. meet the Part I.B eligibility requirements;
 - b. except as provided in Parts II.A.5 and II.A.6, develop a storm water pollution prevention plan (SWPPP) covering either the entire site or all portions of the site for which they are operators (see definition in Part IX.N) according to the requirements in Part IV. A “joint” SWPPP may be developed and implemented as a cooperative effort where there is more than one operator at a site; and
 - c. submit a Notice of Intent (NOI) in accordance with the requirements of Part II, using an NOI form provided by the Director (or a photocopy thereof, see Addendum C, page 45). Only one NOI need be submitted to cover all of the permittee's activities on the common plan of development or sale (e.g., you do not need to submit a separate NOI for each separate lot in a residential subdivision or for two separate buildings being constructed at a manufacturing facility, provided your SWPPP covers each area for which you are an operator). The SWPPP must be implemented upon commencement of construction activities.
2. Any new operator on site, including those who replace an operator who has previously obtained permit coverage, must submit an NOI to obtain permit coverage.
3. Unless notified by the Director to the contrary, operators who submit a correctly completed NOI in accordance with the requirements of this permit are authorized to discharge storm water from construction activities under the terms and conditions of this permit two (2) days after the date that the NOI is postmarked. The Director may deny coverage under this permit and require submittal of an application for an individual NPDES permit based on a review of the NOI or other information (see Part VI.L).

D. Terminating Coverage.

1. Permittees wishing to terminate coverage under this permit must submit a Notice of Termination (NOT) in accordance with Part VIII of this permit (see Addendum D, page 47). Compliance with this permit is required until an NOT is submitted. The permittee's authorization to discharge under this permit terminates at midnight of the day the NOT is signed.
2. All permittees must submit an NOT within thirty (30) days after one or more of the following conditions have been met:
 - a. final stabilization (see definition Part IX.I) has been achieved on all portions of the site for which the permittee is responsible (including if applicable, returning agricultural land to its pre-construction agricultural use);
 - b. another operator/permittee has assumed control according to Part VI.G.2.c. over all areas of the site that have not been finally stabilized; or

D. Terminating Coverage. (Continued)

- c. for residential construction only, temporary stabilization has been completed and the residence has been transferred to the homeowner.

Enforcement actions may be taken if a permittee submits an NOT without meeting one or more of these conditions.

Part II. NOTICE OF INTENT REQUIREMENTS**A. Deadlines for Notification.**

1. Except as provided in Parts II.A.3, II.A.4, II.A.5 or II.A.6 below, parties defined as operators (see definition in Part IX.N) due to their operational control over construction plans and specifications, including the ability to make modifications to those plans and specifications, must submit a Notice of Intent (NOI) in accordance with the requirements of this Part at least two (2) days prior to the commencement of construction activities (i.e., the initial disturbance of soils associated with clearing, grading, excavation activities, or other construction activities).
2. Except as provided in Parts II.A.3, II.A.4, II.A.5 or II.A.6 below, parties defined as operators (see definition in Part IX.N) due to their day-to-day operational control over activities at a project which are necessary to ensure compliance with a storm water pollution prevention plan or other permit conditions (e.g., general contractor, erosion control contractor) must submit an NOI at least two (2) days prior to commencing work on-site.
3. For storm water discharges from construction projects where the operator changes, including instances where an operator is added after an NOI has been submitted under Parts II.A.1 or II.A.2, the new operator must submit an NOI at least two (2) days before assuming operational control over site specifications or commencing work on-site.
4. Operators are not prohibited from submitting late NOIs. When a late NOI is submitted, authorization is only for discharges that occur after permit coverage is granted. The Agency reserves the right to take appropriate enforcement actions for any unpermitted activities that may have occurred between the time construction commenced and authorization of future discharges is granted (typically 2 days after a complete NOI is submitted).
5. Operators of on-going construction projects as of the effective date of this permit which received authorization to discharge for these projects under the 1992 baseline construction general permit must:
 - a. submit an NOI according to Part II.B. within 90 days of the effective date of this permit. If the permittee is eligible to submit a Notice of Termination (e.g., construction is finished and final stabilization has been achieved) before the 90th day, a new NOI is not required to be submitted;
 - b. for the first 90 days from the effective date of this permit, comply with the terms and conditions of the 1992 baseline construction general permit they were previously authorized under; and
 - c. update their storm water pollution prevention plan to comply with the requirements of Part IV within 90 days after the effective date of this permit.

A. Deadlines for Notification. (Continued)

6. Operators of on-going construction projects as of the effective date of this permit which did **not** receive authorization to discharge for these projects under the 1992 baseline construction general permit must:
 - a. prepare and comply with an interim storm water pollution prevention plan in accordance with the 1992 baseline construction general permit prior to submitting an NOI;
 - b. submit a NOI according to Part II.B; and
 - c. update their storm water pollution prevention plan to comply with the requirements of Part IV within 90 days after the effective date of this permit.

B. Contents of Notice of Intent (NOI).

1. The NOI form shall be signed in accordance with Part VI.G of this permit and shall include the following information:
 - a. the name, address, and telephone number of the operator filing the NOI for permit coverage;
 - b. an indication of whether the operator is a Federal, State, Tribal, private, or other public entity;
 - c. the name (or other identifier), address, county, and latitude/longitude of the construction project or site;
 - d. an indication (Yes or No) of whether the project or site is located on Indian Country lands;
 - e. confirmation that a storm water pollution prevention plan (SWPPP) has been developed or will be developed prior to commencing construction activities, and that the SWPPP will be compliant with any applicable local sediment and erosion control plans. Copies of SWPPPs or permits should **not** be included with the NOI submission;
 - f. optional information: the location where the SWPPP may be viewed and the name and telephone number of a contact person for scheduling viewing times;
 - g. the name of the nearest named receiving water(s);
 - h. estimates of project start and completion dates, and estimates of the number of acres of the site on which soil will be disturbed (if less than 1 acre, enter "1");
 - i. based on the instructions in Addendum A, whether any listed or proposed threatened or endangered species, or designated critical habitat, are in proximity to the storm water discharges or storm water discharge-related activities to be covered by this permit; and
 - j. under which section(s) of Part I.B.3.e. (Endangered Species) the applicant is certifying eligibility.

B. Contents of Notice of Intent (NOI). (Continued)

Note that as of the effective date of this permit, reporting of information relating to the preservation of historic properties has been reserved and is not required at this time. Such reservation in no way relieves applicants or permittees from any otherwise applicable obligations or liabilities related to historic preservation under State, Tribal or local law. After further discussions between EPA and the Advisory Council on Historic Preservation, the Agency may modify the permit. Any such modification may affect future Notice of Intent reporting requirements.

C. Where to Submit.

1. NOIs must be signed in accordance with Part VI.G. and sent to the following address:

Storm Water Notice of Intent (4203)
US EPA
401 M. Street, SW
Washington, D.C. 20460

Part III. SPECIAL CONDITIONS, MANAGEMENT PRACTICES, AND OTHER NON-NUMERIC LIMITATIONS

A. Prohibition on Non-Storm Water Discharges.

1. Except as provided in Parts I.B.2 or 3 and III.A.2 or 3, all discharges covered by this permit shall be composed entirely of storm water associated with construction activity.
2. Discharges of material other than storm water that are in compliance with an NPDES permit (other than this permit) issued for that discharge may be discharged or mixed with discharges authorized by this permit.
3. The following non-storm water discharges from active construction sites are authorized by this permit provided the non-storm water component of the discharge is in compliance with Part IV.D.5 (non-storm water discharges): discharges from fire fighting activities; fire hydrant flushings; waters used to wash vehicles where detergents are not used; water used to control dust in accordance with Part IV.D.2.c.(2); potable water sources including waterline flushings; routine external building wash down which does not use detergents; pavement washwaters where spills or leaks of toxic or hazardous materials have not occurred (unless all spilled material has been removed) and where detergents are not used; air conditioning condensate; uncontaminated ground water or spring water; and foundation or footing drains where flows are not contaminated with process materials such as solvents.

B. Releases in Excess of Reportable Quantities. The discharge of hazardous substances or oil in the storm water discharge(s) from a facility shall be prevented or minimized in accordance with the applicable storm water pollution prevention plan for the facility. This permit does not relieve the permittee of the reporting requirements of 40 CFR 110, 40 CFR 117 and 40 CFR 302. Where a release containing a hazardous substance or oil in an amount equal to or in excess of a reportable quantity established under either 40 CFR 110, 40 CFR 117 or 40 CFR 302, occurs during a 24 hour period:

1. The permittee is required to notify the National Response Center (NRC) (800-424-8802; in the Washington, DC, metropolitan area call 202-426-2675) in accordance with the requirements of 40 CFR 110, 40 CFR 117 and 40 CFR 302 as soon as he or she has knowledge of the discharge;
2. The storm water pollution prevention plan required under Part IV of this permit must be modified within 14 calendar days of knowledge of the release to: provide a description of the release, the circumstances leading to the release, and the date of the release. In addition, the plan must be reviewed to identify measures to prevent the reoccurrence of such releases and to respond to such releases, and the plan must be modified where appropriate.

C. Spills. This permit does not authorize the discharge of hazardous substances or oil resulting from an on-site spill.

D. Discharge Compliance with Water Quality Standards. Operators seeking coverage under this permit shall not be causing or have the reasonable potential to cause or contribute to a violation of a water quality standard. Where a discharge is already authorized under this permit and is later determined to cause or have the reasonable potential to cause or contribute to the violation of an applicable water quality standard, the Director will notify the operator of such violation(s). The permittee shall take all necessary actions to ensure future discharges do not cause or contribute to the violation of a water quality standard and document these actions in the storm water pollution prevention plan. If violations remain or

D. Discharge Compliance with Water Quality Standards. (Continued)

re-occur, then coverage under this permit may be terminated by the Director, and an alternative general permit or individual permit may be issued. Compliance with this requirement does not preclude any enforcement activity as provided by the Clean Water Act for the underlying violation.

E. Responsibilities of Operators. Permittees may meet one or both of the operational control components in the definition of “operator” found in Part IX.N. Either Parts III.E.1 or III.E.2 or both will apply depending on the type of operational control exerted by an individual permittee. Part III.E.3 applies to all permittees.

1. Permittees with operational control over construction plans and specifications, including the ability to make modifications to those plans and specifications (e.g., developer or owner), must:
 - a. ensure the project specifications that they develop meet the minimum requirements of Part IV (Storm Water Pollution Prevention Plans (SWPPP)) and all other applicable conditions;
 - b. ensure that the SWPPP indicates the areas of the project where they have operational control over project specifications (including the ability to make modifications in specifications), and ensure all other permittees implementing portions of the SWPPP impacted by any changes they make to the plan are notified of such modifications in a timely manner; and
 - c. ensure that the SWPPP for portions of the project where they are operators indicates the name and NPDES permit number for parties with day-to-day operational control of those activities necessary to ensure compliance with the SWPPP or other permit conditions. If these parties have not been identified at the time the SWPPP is initially developed, the permittee with operational control over project specifications shall be considered to be the responsible party until such time as the authority is transferred to another party (e.g., general contractor) and the plan updated.
2. Permittee(s) with day-to-day operational control of those activities at a project which are necessary to ensure compliance with a SWPPP for the site or other permit conditions (e.g., general contractor) must:
 - a. ensure that the SWPPP for portions of the project where they are operators meets the minimum requirements of Part IV (Storm Water Pollution Prevention Plan) and identifies the parties responsible for implementation of control measures identified in the plan;
 - b. ensure that the SWPPP indicates areas of the project where they have operational control over day-to-day activities;
 - c. ensure that the SWPPP for portions of the project where they are operators indicates the name and NPDES permit number of the party(ies) with operational control over project specifications (including the ability to make modifications in specifications);
3. Permittees with operational control over only a portion of a larger construction project (e.g., one of four homebuilders in a subdivision) are responsible for compliance with all applicable terms and conditions of this permit as it relates to their activities on their portion of the construction site, including protection of endangered species and implementation of BMPs and other controls required by the SWPPP. Permittees shall ensure either directly or through coordination with other permittees, that their activities do not render another party's pollution controls ineffective. Permittees must either implement their portions of a common SWPPP or develop and implement their own SWPPP.

Part IV. STORM WATER POLLUTION PREVENTION PLANS

At least one storm water pollution prevention plan (SWPPP) shall be developed for each construction project or site covered by this permit. For more effective coordination of BMPs and opportunities for cost sharing, a cooperative effort by the different operators at a site to prepare and participate in a comprehensive SWPPP is encouraged. Individual operators at a site may, but are not required, to develop separate SWPPPs that cover only their portion of the project provided reference is made to other operators at the site. In instances where there is more than one SWPPP for a site, coordination must be conducted between the permittees to ensure the storm water discharge controls and other measures are consistent with one another (e.g., provisions to protect listed species and critical habitat).

Storm water pollution prevention plans shall be prepared in accordance with good engineering practices. The SWPPP shall identify potential sources of pollution which may reasonably be expected to affect the quality of storm water discharges from the construction site. The SWPPP shall describe and ensure the implementation of practices which will be used to reduce the pollutants in storm water discharges associated with construction activity at the construction site and assure compliance with the terms and conditions of this permit.

When developing SWPPPs, applicants must follow the procedures in Addendum A of this permit to determine whether listed endangered or threatened species or critical habitat would be affected by the applicant's storm water discharges or storm water discharge-related activities. Any information on whether listed species or critical habitat are found in proximity to the construction site must be included in the SWPPP. Any terms or conditions that are imposed under the eligibility requirements of Part I.B.3.e and Addendum A of this permit to protect listed species or critical habitat from storm water discharges or storm water discharge-related activity must be incorporated into the SWPPP. Permittees must implement the applicable provisions of the SWPPP required under this part as a condition of this permit.

A. Deadlines for Plan Preparation and Compliance. The storm water pollution prevention plan shall:

1. be completed prior to the submittal of an NOI to be covered under this permit (except as provided in Parts II.A.5 and II.A.6) updated as appropriate; and
2. provide for compliance with the terms and schedule of the SWPPP beginning with the initiation of construction activities.

B. Signature, Plan Review and Making Plans Available.

1. The SWPPP shall be signed in accordance with Part VI.G, and be retained on-site at the facility which generates the storm water discharge in accordance with Part V (Retention of Records) of this permit.
2. The permittee shall post a notice near the main entrance of the construction site with the following information:
 - a. the NPDES permit number for the project or a copy of the NOI if a permit number has not yet been assigned;
 - b. the name and telephone number of a local contact person;
 - c. a brief description of the project; and

B. Signature, Plan Review and Making Plans Available. (Continued)

- d. the location of the SWPPP if the site is inactive or does not have an on-site location to store the plan.

If posting this information near a main entrance is infeasible due to safety concerns, the notice shall be posted in a local public building. If the construction project is a linear construction project (e.g., pipeline, highway, etc.), the notice must be placed in a publicly accessible location near where construction is actively underway and moved as necessary. This permit does not provide the public with any right to trespass on a construction site for any reason, including inspection of a site; nor does this permit require that permittees allow members of the public access to a construction site.

3. The permittee shall make SWPPPs available upon request to the Director, a State, Tribal or local agency approving sediment and erosion plans, grading plans, or storm water management plans; local government officials; or the operator of a municipal separate storm sewer receiving discharges from the site. The copy of the SWPPP that is required to be kept on-site or locally available must be made available to the Director for review at the time of an on-site inspection. Also, in the interest of public involvement, EPA encourages permittees to make their SWPPPs available to the public for viewing during normal business hours.
4. The Director may notify the permittee at any time that the SWPPP does not meet one or more of the minimum requirements of this Part. Such notification shall identify those provision of this permit which are not being met by the SWPPP as well as those requiring modification in order to meet the minimum requirements of this Part. Within seven (7) calendar days of receipt of such notification from the Director (or as otherwise provided by the Director), the permittee shall make the required changes to the SWPPP and shall submit to the Director a written certification that the requested changes have been made. The Director may take appropriate enforcement action for the period of time the permittee was operating under a plan that did not meet the minimum requirements of this permit.

C. Keeping Plans Current. The permittee must amend the storm water pollution prevention plan whenever:

1. There is a change in design, construction, operation, or maintenance which has a significant effect on the discharge of pollutants to the waters of the United States which has not been addressed in the SWPPP; or
2. Inspections or investigations by site operators, local, State, Tribal or Federal officials indicate the SWPPP is proving ineffective in eliminating or significantly minimizing pollutants from sources identified under Part IV.D.1 of this permit, or is otherwise not achieving the general objectives of controlling pollutants in storm water discharges associated with construction activity.

D. Contents of Plan. The storm water pollution prevention plan (SWPPP) shall include the following items:

1. **Site Description.** Each SWPPP shall provide a description of potential pollutant sources and other information as indicated below:
 - a. a description of the nature of the construction activity;

1. Site Description. (Continued)

- b.** a description of the intended sequence of major activities which disturb soils for major portions of the site (e.g., grubbing, excavation, grading, utilities and infrastructure installation);
 - c.** estimates of the total area of the site and the total area of the site that is expected to be disturbed by excavation, grading, or other activities including off-site borrow and fill areas;
 - d.** an estimate of the runoff coefficient of the site for both the pre-construction and post-construction conditions and data describing the soil or the quality of any discharge from the site;
 - e.** a general location map (e.g., a portion of a city or county map) and a site map indicating the following: drainage patterns and approximate slopes anticipated after major grading activities; areas of soil disturbance; areas which will not be disturbed; locations of major structural and nonstructural controls identified in the SWPPP; locations where stabilization practices are expected to occur; locations of off-site material, waste, borrow or equipment storage areas; surface waters (including wetlands); and locations where storm water discharges to a surface water;
 - f.** location and description of any discharge associated with industrial activity other than construction, including storm water discharges from dedicated asphalt plants and dedicated concrete plants, which is covered by this permit;
 - g.** the name of the receiving water(s) and the areal extent and description of wetland or other special aquatic sites (as described under 40 CFR 230.3(q-1)) at or near the site which will be disturbed or which will receive discharges from disturbed areas of the project;
 - h.** a copy of the permit requirements (attaching a copy of this permit is acceptable); and
 - i.** information on whether listed endangered or threatened species, or critical habitat, are found in proximity to the construction activity and whether such species may be affected by the applicant's storm water discharges or storm water discharge-related activities.
- 2. Controls.** Each SWPPP shall include a description of appropriate control measures (i.e., BMPs) that will be implemented as part of the construction activity to control pollutants in storm water discharges. The SWPPP must clearly describe for each major activity identified in Part IV.D.1.b:
- a)** appropriate control measures and the general timing (or sequence) during the construction process that the measures will be implemented; and
 - b)** which permittee is responsible for implementation (e.g., perimeter controls for one portion of the site will be installed by Contractor A after the clearing and grubbing necessary for installation of the measure, but before the clearing and grubbing for the remaining portions of the site; and perimeter controls will be actively maintained by Contractor B until final stabilization of those portions of the site up-gradient of the perimeter control; and temporary perimeter controls will be removed by the owner after final stabilization). The description and implementation of control measures shall address the following minimum components:

a. Erosion and Sediment Controls.**(1) *Short and Long Term Goals and Criteria:***

- (a)** The construction-phase erosion and sediment controls should be designed to retain sediment on site to the extent practicable.

(1) Short and Long Term Goals and Criteria: (Continued)

- (b)** All control measures must be properly selected, installed, and maintained in accordance with the manufacturers specifications and good engineering practices. If periodic inspections or other information indicates a control has been used inappropriately, or incorrectly, the permittee must replace or modify the control for site situations.
- (c)** If sediment escapes the construction site, off-site accumulations of sediment must be removed at a frequency sufficient to minimize offsite impacts (e.g., fugitive sediment in street could be washed into storm sewers by the next rain and/or pose a safety hazard to users of public streets).
- (d)** Sediment must be removed from sediment traps or sedimentation ponds when design capacity has been reduced by 50%.
- (e)** Litter, construction debris, and construction chemicals exposed to storm water shall be prevented from becoming a pollutant source for storm water discharges (e.g., screening outfalls, picked up daily).
- (f)** Offsite material storage areas (also including overburden and stockpiles of dirt, borrow areas, etc.) used solely by the permitted project are considered a part of the project and shall be addressed in the SWPPP.

(2) Stabilization Practices: The SWPPP must include a description of interim and permanent stabilization practices for the site, including a schedule of when the practices will be implemented. Site plans should ensure that existing vegetation is preserved where attainable and that disturbed portions of the site are stabilized. Stabilization practices may include but are not limited to: establishment of temporary vegetation, establishment of permanent vegetation, mulching, geotextiles, sod stabilization, vegetative buffer strips, protection of trees, preservation of mature vegetation, and other appropriate measures. Use of impervious surfaces for stabilization should be avoided.

The following records shall be maintained and attached to the SWPPP: the dates when major grading activities occur; the dates when construction activities temporarily or permanently cease on a portion of the site; and the dates when stabilization measures are initiated.

Except as provided in Parts IV.D.2.a.(2)(a), (b), and (c) below, stabilization measures shall be initiated as soon as practicable in portions of the site where construction activities have temporarily or permanently ceased, but in no case more than 14 days after the construction activity in that portion of the site has temporarily or permanently ceased.

- (a)** Where the initiation of stabilization measures by the 14th day after construction activity temporary or permanently cease is precluded by snow cover or frozen ground conditions, stabilization measures shall be initiated as soon as practicable.
- (b)** Where construction activity on a portion of the site is temporarily ceased, and earth disturbing activities will be resumed within 21 days, temporary stabilization measures do not have to be initiated on that portion of site.

(2) *Stabilization Practices:* (Continued)

- (c) In arid areas (areas with an average annual rainfall of 0 to 10 inches), semi-arid areas (areas with an average annual rainfall of 10 to 20 inches), and areas experiencing droughts where the initiation of stabilization measures by the 14th day after construction activity has temporarily or permanently ceased is precluded by seasonal arid conditions, stabilization measures shall be initiated as soon as practicable.

(3) *Structural Practices:* The SWPPP must include a description of structural practices to divert flows from exposed soils, store flows or otherwise limit runoff and the discharge of pollutants from exposed areas of the site to the degree attainable. Structural practices may include but are not limited to: silt fences, earth dikes, drainage swales, sediment traps, check dams, subsurface drains, pipe slope drains, level spreaders, storm drain inlet protection, rock outlet protection, reinforced soil retaining systems, gabions, and temporary or permanent sediment basins. Placement of structural practices in floodplains should be avoided to the degree attainable. The installation of these devices may be subject to section 404 of the CWA.

- (a) For common drainage locations that serve an area with ten (10) or more acres disturbed at one time, a temporary (or permanent) sediment basin that provides storage for a calculated volume of runoff from a 2 year, 24 hour storm from each disturbed acre drained, or equivalent control measures, shall be provided where attainable until final stabilization of the site. Where no such calculation has been performed, a temporary (or permanent) sediment basin providing 3,600 cubic feet of storage per acre drained, or equivalent control measures, shall be provided where attainable until final stabilization of the site. When computing the number of acres draining into an common location it is not necessary to include flows from offsite areas and flows from onsite areas that are either undisturbed or have undergone final stabilization where such flows are diverted around both the disturbed area and the sediment basin.

In determining whether installing a sediment basin is attainable, the permittee may consider factors such as site soils, slope, available area on site, etc. In any event, the permittee must consider public safety, especially as it relates to children, as a design factor for the sediment basin and alternative sediment controls shall be used where site limitations would preclude a safe design. For drainage locations which serve ten (10) or more disturbed acres at one time and where a temporary sediment basin or equivalent controls is not attainable, smaller sediment basins and/or sediment traps should be used. Where neither the sediment basin nor equivalent controls are attainable due to site limitations, silt fences, vegetative buffer strips, or equivalent sediment controls are required for all down slope boundaries of the construction area and for those side slope boundaries deemed appropriate as dictated by individual site conditions. EPA encourages the use of a combination of sediment and erosion control measures in order to achieve maximum pollutant removal.

- (b) For drainage locations serving less than 10 acres, smaller sediment basins and/or sediment traps should be used. At a minimum, silt fences, vegetative buffer strips, or equivalent sediment controls are required for all down slope boundaries (and for those side slope boundaries deemed appropriate as dictated by individual site conditions) of the construction area unless a sediment basin providing storage for a calculated volume

(3) Structural Practices: (Continued)

of runoff from a 2 year, 24 hour storm or 3,600 cubic feet of storage per acre drained is provided. EPA encourages the use of a combination of sediment and erosion control measures in order to achieve maximum pollutant removal.

- b. Storm Water Management.** A description of measures that will be installed during the construction process to control pollutants in storm water discharges that will occur after construction operations have been completed must be included in the SWPPP. Structural measures should be placed on upland soils to the degree attainable. The installation of these devices may also require a separate permit under section 404 of the CWA. Permittees are only responsible for the installation and maintenance of storm water management measures prior to final stabilization of the site, and are not responsible for maintenance after storm water discharges associated with construction activity have been eliminated from the site. However, post-construction storm water BMPs that discharge pollutants from point sources once construction is completed, may in themselves, need authorization under a separate NPDES permit.
- (1)** Such practices may include but are not limited to: storm water detention structures (including wet ponds); storm water retention structures; flow attenuation by use of open vegetated swales and natural depressions; infiltration of runoff onsite; and sequential systems (which combine several practices). The SWPPP shall include an explanation of the technical basis used to select the practices to control pollution where flows exceed predevelopment levels.
 - (2)** Velocity dissipation devices shall be placed at discharge locations and along the length of any outfall channel to provide a non-erosive flow velocity from the structure to a water course so that the natural physical and biological characteristics and functions are maintained and protected (e.g. no significant changes in the hydrological regime of the receiving water).
- c. Other Controls.**
- (1)** No solid materials, including building materials, shall be discharged to waters of the United States, except as authorized by a permit issued under section 404 of the CWA.
 - (2)** Off-site vehicle tracking of sediments and the generation of dust shall be minimized.
 - (3)** The SWPPP shall be consistent with applicable State, Tribal and/or local waste disposal, sanitary sewer or septic system regulations to the extent these are located within the permitted area.
 - (4)** The SWPPP shall include a description of construction and waste materials expected to be stored on-site with updates as appropriate. The SWPPP shall also include a description of controls to reduce pollutants from these materials including storage practices to minimize exposure of the materials to storm water, and spill prevention and response.
 - (5)** The SWPPP shall include a description of pollutant sources from areas other than construction (including storm water discharges from dedicated asphalt plants and dedicated concrete plants), and a description of controls and measures that will be implemented at those sites to minimize pollutant discharges.

c. Other Controls. (Continued)

- (6) The SWPPP shall include a description of measures necessary to protect listed endangered or threatened species, or critical habitat, including any terms or conditions that are imposed under the eligibility requirements of Part I.B.3.e (4) of this permit. Failure to describe and implement such measures will result in storm water discharges from construction activities that are ineligible for coverage under this permit.

d. Approved State, Tribal or Local Plans.

- (1) Permittees which discharge storm water associated with construction activities must ensure their storm water pollution prevention plan is consistent with requirements specified in applicable sediment and erosion site plans or site permits, or storm water management site plans or site permits approved by State, Tribal, or local officials.
- (2) Storm water pollution prevention plans must be updated as necessary to remain consistent with any changes applicable to protecting surface water resources in sediment and erosion site plans or site permits, or storm water management site plans or site permits approved by State, Tribal or local officials for which the permittee receives written notice..
3. **Maintenance.** All erosion and sediment control measures and other protective measures identified in the SWPPP must be maintained in effective operating condition. If site inspections required by Part IV.D.4. identify BMPs that are not operating effectively, maintenance shall be performed before the next anticipated storm event, or as necessary to maintain the continued effectiveness of storm water controls. If maintenance prior to the next anticipated storm event is impracticable, maintenance must be scheduled and accomplished as soon as practicable.
4. **Inspections.** Qualified personnel (provided by the permittee or cooperatively by multiple permittees) shall inspect disturbed areas of the construction site that have not been finally stabilized, areas used for storage of materials that are exposed to precipitation, structural control measures, and locations where vehicles enter or exit the site, at least once every fourteen (14) calendar days and within 24 hours of the end of a storm event of 0.5 inches or greater.

Where sites have been finally or temporarily stabilized, runoff is unlikely due to winter conditions (e.g., site is covered with snow, ice, or frozen ground exists), or during seasonal arid periods in arid areas (areas with an average annual rainfall of 0 to 10 inches) and semi-arid areas (areas with an average annual rainfall of 10 to 20 inches) such inspections shall be conducted at least once every month.

Permittees are eligible for a waiver of monthly inspection requirements until one month **before** thawing conditions are expected to result in a discharge if all of the following requirements are met: 1) the project is located in an area where frozen conditions are anticipated to continue for extended periods of time (i.e., more than one month); 2) land disturbance activities have been suspended; and 3) the beginning and ending dates of the waiver period are documented in the SWPPP.

- a. Disturbed areas and areas used for storage of materials that are exposed to precipitation shall be inspected for evidence of, or the potential for, pollutants entering the drainage system. Sediment and erosion control measures identified in the SWPPP shall be observed to ensure that they are operating correctly. Where discharge locations or points are accessible, they shall be inspected to ascertain whether erosion control measures are effective in preventing significant impacts to

4. Inspections. (Continued)

receiving waters. Where discharge locations are inaccessible, nearby downstream locations shall be inspected to the extent that such inspections are practicable. Locations where vehicles enter or exit the site shall be inspected for evidence of offsite sediment tracking.

- b.** Based on the results of the inspection, the SWPPP shall be modified as necessary (e.g., show additional controls on map required by Part IV.D.1; revise description of controls required by Part IV.D.2) to include additional or modified BMPs designed to correct problems identified. Revisions to the SWPPP shall be completed within 7 calendar days following the inspection. If existing BMPs need to be modified or if additional BMPs are necessary, implementation shall be completed before the next anticipated storm event. If implementation before the next anticipated storm event is impracticable, they shall be implemented as soon as practicable.
 - c.** A report summarizing the scope of the inspection, name(s) and qualifications of personnel making the inspection, the date(s) of the inspection, and major observations relating to the implementation of the SWPPP shall be made and retained as part of the SWPPP for at least three years from the date that the site is finally stabilized. Major observations should include: the location(s) of discharges of sediment or other pollutants from the site; location(s) of BMPs that need to be maintained; location(s) of BMPs that failed to operate as designed or proved inadequate for a particular location; and location(s) where additional BMPs are needed that did not exist at the time of inspection. Actions taken in accordance with Part IV.D.4.b of this permit shall be made and retained as part of the storm water pollution prevention plan for at least three years from the date that the site is finally stabilized. Such reports shall identify any incidents of non-compliance. Where a report does not identify any incidents of non-compliance, the report shall contain a certification that the facility is in compliance with the storm water pollution prevention plan and this permit. The report shall be signed in accordance with Part VI.G of this permit.
- 5. Non-Storm Water Discharges.** Except for flows from fire fighting activities, sources of non-storm water listed in Part III.A.2 or 3 of this permit that are combined with storm water discharges associated with construction activity must be identified in the SWPPP. The SWPPP shall identify and ensure the implementation of appropriate pollution prevention measures for the non-storm water component(s) of the discharge.

Part V. RETENTION OF RECORDS

- A. Documents.** The permittee shall retain copies of storm water pollution prevention plans and all reports required by this permit, and records of all data used to complete the Notice of Intent to be covered by this permit, for a period of at least three years from the date that the site is finally stabilized. This period may be extended by request of the Director at any time.
- B. Accessibility.** The permittee shall retain a copy of the storm water pollution prevention plan required by this permit (including a copy of the permit language) at the construction site (or other local location accessible to the Director, a State, Tribal or local agency approving sediment and erosion plans, grading plans, or storm water management plans; local government officials; or the operator of a municipal separate storm sewer receiving discharges from the site) from the date of project initiation to the date of final stabilization. Permittees with day-to-day operational control over SWPPP implementation shall have a copy of the SWPPP available at a central location on-site for the use of all operators and those identified as having responsibilities under the SWPPP whenever they are on the construction site.
- C. Addresses.** Except for the submittal of NOIs and NOTs (see Parts II.C and VIII.B, respectively), all written correspondence concerning discharges in any State, Indian Country land or from any Federal facility covered under this permit and directed to the EPA, including the submittal of individual permit applications, shall be sent to the following address:

United States EPA, Region 8
Ecosystems Protection Program (8EPR-EP)
Storm Water Staff
999 18th Street, Suite 500
Denver, CO 80202-2466

Part VI. STANDARD PERMIT CONDITIONS**A. Duty to Comply.**

1. The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of CWA and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application.
2. **Penalties for Violations of Permit Conditions.** The Director will adjust the civil and administrative penalties listed below in accordance with the Civil Monetary Penalty Inflation Adjustment Rule (Federal Register: December 31, 1996, Volume 61, Number 252, pages 69359-69366, as corrected, March 20, 1997, Volume 62, Number 54, pages 13514-13517) as mandated by the Debt Collection Improvement Act of 1996 for inflation on a periodic basis. This rule allows EPA's penalties to keep pace with inflation. The Agency is required to review its penalties at least once every four years thereafter and to adjust them as necessary for inflation according to a specified formula. The civil and administrative penalties listed below were adjusted for inflation starting in 1996.

a. Criminal.

- (1) *Negligent Violations.* The CWA provides that any person who negligently violates permit conditions implementing sections 301, 302, 306, 307, 308, 318, or 405 of the Act is subject to a fine of not less than \$2,500 nor more than \$25,000 per day of violation, or by imprisonment for not more than 1 year, or both.
- (2) *Knowing Violations.* The CWA provides that any person who knowingly violates permit conditions implementing sections 301, 302, 306, 307, 308, 318, or 405 of the Act is subject to a fine of not less than \$5,000 nor more than \$50,000 per day of violation, or by imprisonment for not more than 3 years, or both.
- (3) *Knowing Endangerment.* The CWA provides that any person who knowingly violates permit conditions implementing sections 301, 302, 306, 307, 308, 318, or 405 of the Act and who knows at that time that he is placing another person in imminent danger of death or serious bodily injury is subject to a fine of not more than \$250,000, or by imprisonment for not more than 15 years, or both.
- (4) *False Statement.* The CWA provides that any person who knowingly makes any false material statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under the Act or who knowingly falsifies, tampers with, or renders inaccurate, any monitoring device or method required to be maintained under the Act, shall upon conviction, be punished by a fine of not more than \$10,000 or by imprisonment for not more than two years, or by both. If a conviction is for a violation committed after a first conviction of such person under this paragraph, punishment shall be by a fine of not more than \$20,000 per day of violation, or by imprisonment of not more than four years, or by both. (See section 309.c.4 of the Clean Water Act).

- b. Civil Penalties.** The CWA provides that any person who violates a permit condition implementing sections 301, 302, 306, 307, 308, 318, or 405 of the Act is subject to a civil penalty not to exceed \$27,500 per day for each violation.

2. Penalties for Violations of Permit Conditions. (Continued)

- c. **Administrative Penalties.** The CWA provides that any person who violates a permit condition implementing sections 301, 302, 306, 307, 308, 318, or 405 of the Act is subject to an administrative penalty, as follows:
- (1) *Class I Penalty.* Not to exceed \$11,000 per violation nor shall the maximum amount exceed \$27,500.
- (2) *Class II Penalty.* Not to exceed \$11,000 per day for each day during which the violation continues nor shall the maximum amount exceed \$137,500.
- B. **Continuation of the Expired General Permit.** If this permit is not reissued or replaced prior to the expiration date, it will be administratively continued in accordance with the Administrative Procedures Act and remain in force and effect. Any permittee who was granted permit coverage prior to the expiration date will automatically remain covered by the continued permit until the earlier of:
1. Reissuance or replacement of this permit, at which time the permittee must comply with the Notice of Intent conditions of the new permit to maintain authorization to discharge; or
 2. the permittee's submittal of a Notice of Termination; or
 3. issuance of an individual permit for the permittee's discharges; or
 4. a formal permit decision by the Director not to reissue this general permit, at which time the permittee must seek coverage under an alternative general permit or an individual permit.
- C. **Need to Halt or Reduce Activity not a Defense.** It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.
- D. **Duty to Mitigate.** The permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.
- E. **Duty to Provide Information.** The permittee shall furnish to the Director or an authorized representative of the Director any information which is requested to determine compliance with this permit or other information.
- F. **Other Information.** When the permittee becomes aware that he or she failed to submit any relevant facts or submitted incorrect information in the Notice of Intent or in any other report to the Director, he or she shall promptly submit such facts or information.
- G. **Signatory Requirements.** All Notices of Intent, Notices of Termination, storm water pollution prevention plans, reports, certifications or information either submitted to the Director or the operator of a large or medium municipal separate storm sewer system, or that this permit requires be maintained by the permittee, shall be signed as follows:
1. All Notices of Intent and Notices of Termination shall be signed as follows:

G. Signatory Requirements. (Continued)

- a. for a corporation: by a responsible corporate officer. For the purpose of this section, a responsible corporate officer means: a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or the manager of one or more manufacturing, production or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25,000,000 (in second-quarter 1980 dollars) if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;
 - b. for a partnership or sole proprietorship: by a general partner or the proprietor, respectively; or
 - c. for a municipality, State, Federal, or other public agency: by either a principal executive officer or ranking elected official. For purposes of this section, a principal executive officer of a Federal agency includes (1) the chief executive officer of the agency, or (2) a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., Regional Administrators of EPA).
2. All reports required by this permit and other information requested by the Director or authorized representative of the Director shall be signed by a person described above or by a duly authorized representative of that person. A person is a duly authorized representative only if:
 - a. the authorization is made in writing by a person described above and submitted to the Director.
 - b. the authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity, such as the position of manager, operator, superintendent, or position of equivalent responsibility or an individual or position having overall responsibility for environmental matters for the company. (A duly authorized representative may thus be either a named individual or any individual occupying a named position).
 - c. Changes to Authorization. If an authorization under Part II.B is no longer accurate because a different operator has responsibility for the overall operation of the construction site, a new Notice of Intent satisfying the requirements of Part II.B must be submitted to the Director prior to or together with any reports, information, or applications to be signed by an authorized representative. The change in authorization must be submitted within the time frame specified in Part II.A.3, and sent to the address specified in Part II.C.
 - d. Certification. Any person signing documents under Part VI.G shall make the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

- H. Penalties for Falsification of Reports.** Section 309(c)(4) of the Clean Water Act provides that any person who knowingly makes any false material statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including reports of compliance or noncompliance shall, upon conviction, be punished by a fine of not more than \$10,000, or by imprisonment for not more than two years, or by both.
- I. Oil and Hazardous Substance Liability.** Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under section 311 of the CWA or section 106 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA).
- J. Property Rights.** The issuance of this permit does not convey any property rights of any sort, nor any exclusive privileges, nor does it authorize any injury to private property nor any invasion of personal rights, nor any infringement of Federal, State or local laws or regulations.
- K. Severability.** The provisions of this permit are severable, and if any provision of this permit, or the application of any provision of this permit to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this permit shall not be affected thereby.
- L. Requiring an Individual Permit or an Alternative General Permit.**
1. The Director may require any person authorized by this permit to apply for and/or obtain either an individual NPDES permit or an alternative NPDES general permit. Any interested person may petition the Director to take action under this paragraph. Where the Director requires a permittee authorized to discharge under this permit to apply for an individual NPDES permit, the Director shall notify the permittee in writing that a permit application is required. This notification shall include a brief statement of the reasons for this decision, an application form, a statement setting a deadline for the permittee to file the application, and a statement that on the effective date of issuance or denial of the individual NPDES permit or the alternative general permit as it applies to the individual permittee, coverage under this general permit shall automatically terminate. Applications shall be submitted to the appropriate Regional Office indicated in Part V.C of this permit. The Director may grant additional time to submit the application upon request of the applicant. If a permittee fails to submit in a timely manner an individual NPDES permit application as required by the Director under this paragraph, then the applicability of this permit to the individual NPDES permittee is automatically terminated at the end of the day specified by the Director for application submittal.
 2. Any permittee authorized by this permit may request to be excluded from the coverage of this permit by applying for an individual permit. In such cases, the permittee shall submit an individual application in accordance with the requirements of 40 CFR 122.26(c)(1)(ii), with reasons supporting the request, to the Director at the address for the appropriate Regional Office indicated in Part V.C of this permit. The request may be granted by issuance of any individual permit or an alternative general permit if the reasons cited by the permittee are adequate to support the request.
 3. When an individual NPDES permit is issued to a permittee otherwise subject to this permit, or the permittee is authorized to discharge under an alternative NPDES general permit, the applicability of this permit to the individual NPDES permittee is automatically terminated on the effective date of the individual permit or the date of authorization of coverage under the alternative general permit, whichever the case may be. When an individual NPDES permit is denied to an owner or operator otherwise subject to this permit, or the owner or operator is denied for coverage under an alternative NPDES general permit, the applicability of this permit to the individual NPDES permittee is automatically terminated on the date of such denial, unless otherwise specified by the Director.

M. State/Tribal Environmental Laws.

1. Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable State/Tribal law or regulation under authority preserved by section 510 of the Act.
2. No condition of this permit shall release the permittee from any responsibility or requirements under other environmental statutes or regulations.

N. Proper Operation and Maintenance. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit and with the requirements of storm water pollution prevention plans. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. Proper operation and maintenance requires the operation of backup or auxiliary facilities or similar systems, installed by a permittee only when necessary to achieve compliance with the conditions of this permit.

O. Inspection and Entry. The permittee shall allow the Director or an authorized representative of EPA, the State/Tribe, or, in the case of a construction site which discharges through a municipal separate storm sewer, an authorized representative of the municipal owner/operator or the separate storm sewer receiving the discharge, upon the presentation of credentials and other documents as may be required by law, to:

1. Enter upon the permittee's premises where a regulated facility or activity is located or conducted or where records must be kept under the conditions of this permit;
2. Have access to and copy at reasonable times, any records that must be kept under the conditions of this permit; and
3. Inspect at reasonable times any facilities or equipment (including monitoring and control equipment).

P. Permit Actions. This permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition.

Part VII. REOPENER CLAUSE

- A. If there is evidence indicating that the storm water discharges authorized by this permit cause, have the reasonable potential to cause or contribute to, a violation of a water quality standard, the permittee may be required to obtain an individual permit or an alternative general permit in accordance with Part I.C of this permit, or the permit may be modified to include different limitations and/or requirements.
- B. Permit modification or revocation will be conducted according to 40 CFR 122.62, 122.63, 122.64 and 124.5.
- C. EPA may propose a modification to this permit after further discussions between the Agency and the Advisory Council on Historic Preservation for the protection of historic properties.

Part VIII. TERMINATION OF COVERAGE

A. Notice of Termination. Permittees must submit a completed Notice of Termination (NOT) that is signed in accordance with Part VI.G of this permit when one or more of the conditions contained in Part I.D.2. (Terminating Coverage) have been met at a construction project. The NOT form found in Addendum D will be used unless it has been replaced by a revised version by the Director. The Notice of Termination shall include the following information:

1. The NPDES permit number for the storm water discharge identified by the Notice of Termination;
2. An indication of whether the storm water discharges associated with construction activity have been eliminated (i.e., regulated discharges of storm water are being terminated) or the permittee is no longer an operator at the site;
3. The name, address and telephone number of the permittee submitting the Notice of Termination;
4. The name of the project and street address (or a description of location if no street address is available) of the construction site for which the notification is submitted;
5. The latitude and longitude of the construction site; and
6. The following certification, signed in accordance with Part VI.G (signatory requirements) of this permit. For construction projects with more than one permittee and/or operator, the permittee need only make this certification for those portions of the construction site where the permittee was authorized under this permit and not for areas where the permittee was not an operator:

"I certify under penalty of law that all storm water discharges associated with industrial activity from the identified facility that authorized by a general permit have been eliminated or that I am no longer the operator of the facility or construction site. I understand that by submitting this notice of termination, I am no longer authorized to discharge storm water associated with industrial activity under this general permit, and that discharging pollutants in storm water associated with industrial activity to waters of the United States is unlawful under the Clean Water Act where the discharge is not authorized by a NPDES permit. I also understand that the submittal of this Notice of Termination does not release an operator from liability for any violations of this permit or the Clean Water Act."

For the purposes of this certification, elimination of storm water discharges associated with construction activity means that all disturbed soils at the portion of the construction site where the operator had control have been finally stabilized (as defined in Part IX.I) and temporary erosion and sediment control measures have been removed or will be removed at an appropriate time to ensure final stabilization is maintained, or that all storm water discharges associated with construction activities from the identified site that are authorized by a NPDES general permit have otherwise been eliminated from the portion of the construction site where the operator had control.

B. Addresses.

1. All Notices of Termination, signed in accordance with Part VI.G of this permit, are to be submitted using the form provided by the Director (or a photocopy thereof), to the address specified on the NOT form.

Part IX. DEFINITIONS

- A. **"Best Management Practices" ("BMPs")** means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants to waters of the United States. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.
- B. **"Control Measure"** as used in this permit, refers to any Best Management Practice or other method used to prevent or reduce the discharge of pollutants to waters of the United States.
- C. **"Commencement of Construction"** the initial disturbance of soils associated with clearing, grading, or excavating activities or other construction activities.
- D. **"CWA"** means the Clean Water Act or the Federal Water Pollution Control Act, 33 U.S.C. §1251 et seq.
- E. **"Director"** means the Regional Administrator of the Environmental Protection Agency or an authorized representative.
- F. **"Discharge"** when used without qualification means the "discharge of a pollutant."
- G. **"Discharge of Storm Water Associated with Construction Activity"** as used in this permit, refers to a discharge of pollutants in storm water runoff from areas where soil disturbing activities (e.g., clearing, grading, or excavation), construction materials or equipment storage or maintenance (e.g., fill piles, borrow areas, concrete truck washout, fueling), or other industrial storm water directly related to the construction process (e.g., concrete or asphalt batch plants) are located.
- H. **"Facility or Activity"** means any NPDES "point source" or any other facility or activity (including land or appurtenances thereto) that is subject to regulation under the NPDES program.
- I. **"Final Stabilization"** means that either:
1. All soil disturbing activities at the site have been completed and a uniform (e.g., evenly distributed, without large bare areas) perennial vegetative cover with a density of 70% of the native background vegetative cover for the area has been established on all unpaved areas and areas not covered by permanent structures, or equivalent permanent stabilization measures (such as the use of riprap, gabions, or geotextiles) have been employed. In some parts of the country, background native vegetation will cover less than 100% of the ground (e.g., arid areas, beaches). Establishing at least 70% of the natural cover of native vegetation meets the vegetative cover criteria for final stabilization (e.g., if the native vegetation covers 50% of the ground, 70% of 50% would require 35% total cover for final stabilization; on a beach with no natural vegetation, no stabilization is required); or
 2. For individual lots in residential construction by either: **a)** the homebuilder completing final stabilization as specified above, or **b)** the homebuilder establishing temporary stabilization including perimeter controls for an individual lot prior to occupation of the home by the homeowner and informing the homeowner of the need for, and benefits of, final stabilization. (Homeowners typically have an incentive to put in landscaping functionally equivalent to final stabilization as quick as possible to keep mud out of their homes and off their sidewalks and driveways.); or

I. "Final Stabilization" (continued)

3. For construction projects on land used for agricultural purposes (e.g., pipelines across crop or range land), final stabilization may be accomplished by returning the disturbed land to its preconstruction agricultural use. Areas disturbed that were not previously used for agricultural activities, such as buffer strips immediately adjacent to "waters of the United States," and areas which are not being returned to their preconstruction agricultural use must meet the final stabilization criteria in (1) or (2) above.

J. "Flow-Weighted Composite Sample" means a composite sample consisting of a mixture of aliquots collected at a constant time interval, where the volume of each aliquot is proportional to the flow rate of the discharge.**K. "Large and Medium Municipal Separate Storm Sewer System"** - means all municipal separate storm sewers that are either:

1. Located in an incorporated place (city) with a population of 100,000 or more as determined by the latest Decennial Census by the Bureau of Census (these cities are listed in Appendices F and G of 40 CFR 122); or
2. Located in the counties with unincorporated urbanized populations of 100,000 or more, except municipal separate storm sewers that are located in the incorporated places, townships or towns within such counties (these counties are listed in Appendices H and I of 40 CFR 122); or
3. Owned or operated by a municipality other than those described in paragraph (i) or (ii) and that are designated by the Director as part of the large or medium municipal separate storm sewer system.

L. "NOI" means Notice of Intent to be covered by this permit (see Part II of this permit.)**M. "NOT"** means Notice of Termination (see Part VIII of this permit).**N. "Operator"** for the purpose of this permit and in the context of storm water associated with construction activity, means any party associated with a construction project that meets either of the following two criteria:

1. The party has operational control over construction plans and specifications, including the ability to make modifications to those plans and specifications; or
2. The party has day-to-day operational control of those activities at a project which are necessary to ensure compliance with a storm water pollution prevention plan for the site or other permit conditions (e.g., they are authorized to direct workers at a site to carry out activities required by the SWPPP or comply with other permit conditions).

This definition is provided to inform permittees of EPA's interpretation of how the regulatory definitions of "owner or operator" and "facility or activity" are applied to discharges of storm water associated with construction activity.

O. "Owner or Operator" means the owner or operator of any "facility or activity" subject to regulation under the NPDES program.

- P. **"Point Source"** means any discernible, confined, and discrete conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, vessel or other floating craft from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture or agricultural storm water runoff.
- Q. **"Pollutant"** is defined at 40 CFR 122.2. A partial listing from this definition includes: dredged spoil, solid waste, sewage, garbage, sewage sludge, chemical wastes, biological materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial or municipal waste.
- R. **"Runoff Coefficient"** means the fraction of total rainfall that will appear at the conveyance as runoff.
- S. **"Storm Water"** means storm water runoff, snow melt runoff, and surface runoff and drainage.
- T. **"Storm Water Associated with Industrial Activity"** is defined at 40 CFR 122.26(b)(14) and incorporated here by reference. Most relevant to this permit is 40 CFR 122.26(b)(14)(x), which relates to construction activity including clearing, grading and excavation activities that result in the disturbance of five (5) or more acres of total land area, or are part of a larger common plan of development or sale.
- U. **"Waters of the United States"** means:
1. All waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide;
 2. All interstate waters, including interstate "wetlands";
 3. All other waters such as interstate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds the use, degradation, or destruction of which would affect or could affect interstate or foreign commerce including any such waters:
 - a. Which are or could be used by interstate or foreign travelers for recreational or other purposes;
 - b. From which fish or shellfish are or could be taken and sold in interstate or foreign commerce; or
 - c. Which are used or could be used for industrial purposes by industries in interstate commerce;
 4. All impoundments of waters otherwise defined as waters of the United States under this definition;
 5. Tributaries of waters identified in paragraphs (a) through (d) of this definition;
 6. The territorial sea; and
 7. Wetlands adjacent to waters (other than waters that are themselves wetlands) identified in paragraphs 1. through 6. of this definition.

Waste treatment systems, including treatment ponds or lagoons designed to meet the requirements of the CWA (other than cooling ponds for steam electric generation stations per 40 CFR 423) which also meet the criteria of this definition) are not waters of the United States. Waters of the United States do not include prior converted cropland. Notwithstanding the determination of an area's status as prior converted cropland by any other federal agency, for the purposes of the Clean Water Act, the final authority regarding Clean Water Act jurisdiction remains with EPA.

ADDENDUM A - ENDANGERED SPECIES

I. Instructions for Applicants

A. Background

To meet its obligations under the Clean Water Act and the Endangered Species Act (ESA) and to promote those Acts' goals, the Environmental Protection Agency (EPA) is seeking to ensure the activities regulated by the Construction General Permit (CGP) are protective of endangered and threatened species and critical habitat. To ensure that those goals are met, applicants for CGP coverage are required under Part I.B.3.e. to assess the impacts of their storm water discharges and storm water discharge-related activities on Federally listed endangered and threatened species ("listed species") and designated critical habitat ("critical habitat") by following Steps One through Six listed below. EPA strongly recommends that applicants follow these steps at the earliest possible stage to ensure that measures to protect listed species and critical habitat are incorporated early in the planning process. At minimum, the procedures should be followed when developing the storm water pollution prevention plan.

Permittees and applicants also have an independent ESA obligation to ensure that their activities do not result in any prohibited "takes" of listed species.¹ Many of the measures required in the CGP and in these instructions to protect species may also assist permittees in ensuring that their construction activities do not result in a prohibited take of species in violation of § 9 of the ESA. Applicants who plan construction activities in areas that harbor endangered and threatened species are advised to ensure that they are protected from potential takings liability under ESA § 9 by obtaining either an ESA § 10 permit or by requesting formal consultation under ESA § 7 (as described in more detail in Step Seven below). Applicants who seek protection from takings liability should be aware that it is possible that some specific construction activities may be too unrelated to storm water discharges to be afforded incidental take coverage through an ESA § 7 consultation that is performed to meet the eligibility requirements for CGP coverage. In such instances, applicants should apply for an ESA § 10 permit. Where applicants are not sure whether to pursue a § 10 permit or a § 7 consultation for takings protection, they should confer with the appropriate Fish and Wildlife Service (FWS) or National Marine Fisheries Service (NMFS) office.

This permit provides for the possibility of multiple permittees at a construction site. Applicants should be aware that in many cases they can meet the permit eligibility requirements by relying on another operator's certification of eligibility under Part I.B.3.e.(2)(a), (b), or (c). This is allowed under Part I.B.3.e.(2)(d) of the permit. However, the other operator's certification must apply to the applicant's project area and must address the effects from the applicant's storm water discharges and storm water discharge-related activities on listed species and critical habitat. By certifying eligibility under Part I.B.3.e.(2)(d), the applicant agrees to comply with any measures or controls upon which the other operator's certification under Part I.B.3.e.(2)(a), (b) or (c) was based. This situation will typically occur where a developer or primary contractor, such as one for construction of a subdivision or industrial park, conducts a comprehensive assessment of effects on listed species and critical habitat for the entire construction project, certifies eligibility under Part I.B.3.e.(2)(a), (b) or (c), and that certification is relied upon by other operators (i.e., contractors) at the site. However, applicants

¹ Section 9 of the ESA prohibits any person from "taking" a listed species (e.g., harassing or harming it) unless: 1) the taking is authorized through a "incidental take statement" as part of undergoing ESA § 7 formal consultation; 2) where an incidental take permit is obtained under ESA § 10 (which requires the development of a habitat conservation plan); or 3) where otherwise authorized or exempted under the ESA. This prohibition applies to all entities including private individuals, businesses, and governments.

A. Background (Continued)

that consider relying on another operator's certification should carefully review that certification along with any supporting information. If an applicant does not believe that the operator's certification provides adequate coverage for the applicant's storm water discharges and storm water discharge-related activities or for the applicant's particular project area, the applicant should provide its own independent certification under Part I.B.3.e.(2)(a), (b), or (c).

B. Procedures

To receive coverage under the Construction General Permit, applicants must assess the potential effects of their storm water discharges and storm water discharge-related activities on listed species and their critical habitat. To make this assessment, applicants must follow the steps outlined below prior to completing and submitting Notice of Intent (NOI) form. Applicants who are able to certify eligibility under Parts I.B.3.e.(2)(b), (c) or (d) because of a previously issued ESA § 10 permit, a previously completed ESA § 7 consultation, or because the applicant's activities were already addressed in another operator's certification of eligibility may proceed directly to Step Six.

Note - EPA's new NOI form which is included in Addendum C of this permit (published in the Federal Register on March 6, 1998, 63 FR 11253), requires that applicants provide detailed certification information on listed species. Previous versions of NOI forms should not be used any longer, because they do not contain the specific certification provisions relating to listed species and critical habitats at construction projects. Use of the older NOI forms do **not** relieve applicants of their obligation to follow the procedures listed below to determine if their construction storm water discharges or storm water discharge-related activities meet permit eligibility requirements for the protection of listed species and critical habitat. By following these instructions, applicants will have sufficient information on listed species and critical habitat in order to complete the new NOI form (see Addendum C, page 45) and sign the certification statement.

Step One: Determine if the Construction Site Is Found Within Designated Critical Habitat for Listed Species

Some, but not all, listed species have designated critical habitat. Exact locations of such habitat is provided in the Service regulations at 50 CFR Parts 17 and 226. To determine if their construction site occurs within designated critical habitat, applicants should either:

- Contact the nearest Fish and Wildlife Service (FWS) and National Marine Fisheries Service (NMFS) Office. A list of FWS and NMFS offices is found in Section II of this Addendum; or
- Contact the State or Tribal Natural Heritage Centers. These centers compile and disseminate information on Federally listed and other protected species. They frequently have the most current information on listed species and critical habitat. A list of these centers is provided in Section III of this Addendum; or

Step One: (Continued)

- Review those regulations (which can be found in many larger libraries).

If the construction site is not located in designated critical habitat, then the applicant does not need to consider impacts to critical habitat when following Steps Two through Six below. If the site is located within critical habitat, then the applicant must look at impacts to critical habitat when following Steps Two through Six. Note that many but not all measures imposed to protect listed species under these steps will also protect critical habitat. Thus, meeting the eligibility requirements of this permit may require measures to protect critical habitat that are separate from those to protect listed species.

Step Two: Determine if Listed Species are Located in the County(ies) Where the Construction Activity Will Occur.

Section IV of the Addendum contains a county-by-county list of listed endangered and threatened species ("listed species"), and proposed endangered and threatened species ("proposed species"). Since the list was current as of September 1, 1997, applicants must also check with other sources for updated species and county information. These sources include: Sections II and III of this Addendum; EPA's Office of Wastewater Management's web page at "<http://www.epa.gov/owm>" where updates of the county-by-county list will be posted on a periodic basis; Federal Register Notices; State wildlife protection offices; a biologist or similar professional in the environmental field; or any other method which can be reasonably expected to provide this information. Applicants with construction projects located in EPA Region 2 and Region 6 can call the Storm Water General Permits Hotline at (800) 245-6510 for further assistance, while applicants with projects located in EPA Regions 1, 3, 7, 8, 9 and 10 may contact the appropriate EPA Regional Office.

Where a facility is located in more than one county, the lists for all counties should be reviewed. Where a facility discharges into a water body which serves as a border between counties or which crosses a county line which is in the immediate vicinity of the point of discharge, applicants should also review the species list for the county which lies immediately downstream or is across the water body from the point of discharge.

After a review of the available information from the sources mentioned above, if no listed species are located in a facility's county, and the construction site is not located in critical habitat as described under Step One, an applicant is eligible for CGP coverage without further inquiry into the presence of, or effect to, listed species. The applicant must check the appropriate certification item on the NOI form (Part I.B.3.e.(2)(a)).

Once the applicant has determined which listed species are located in his or her facility's county, the applicant must follow Step Three.

Step Three: Determine if any Federally Listed Endangered and Threatened Species May Be Present in the Project Area

The project area consists of:

Step Three: (Continued)

- The areas on the construction site where storm water discharges originate and flow toward the point of discharge into the receiving waters (including areas where excavation, site development, or other ground disturbance activities occur) and the immediate vicinity.

Example(s)

1. Where bald eagles nest in a tree that is on or bordering a construction site and could be disturbed by the construction activity.
 2. Where grading causes storm water to flow into a small wetland or other habitat that is on the site which contains listed species.
- The areas where storm water discharges flow from the construction site to the point of discharge into receiving waters.

Example(s)

1. Where storm water flows into a ditch, swale, or gully which leads to receiving waters and where listed species (such as amphibians) are found in the ditch, swale, or gully.
- The areas where storm water from construction activities discharge into receiving waters and the areas in the immediate vicinity of the point of discharge.

Example(s)

1. Where storm water from construction activities discharges into a stream segment that is known to harbor listed aquatic species.
- The areas where storm water BMPs will be constructed and operated, including any areas where storm water flows to and from BMPs.

Example(s)

1. Where a storm water retention pond would be built.

The project area will vary with the size and structure of the construction activity, the nature and quantity of the storm water discharges, the storm water discharge-related activities and the type of receiving water. Given the number of construction activities potentially covered by the CGP, no specific method to determine whether listed species may be located in the project area is required for coverage under the CGP. Instead, applicants should use the method which allows them to determine, to the best of their knowledge, whether listed species are located in their project area. These methods may include:

- Conducting visual inspections: This method may be particularly suitable for construction sites that are smaller in size or located in non-natural settings such as highly urbanized areas or industrial parks where there is little or no natural habitat, or for construction activities that discharge directly into municipal storm water collection systems.

Step Three: (Continued)

- Contacting the nearest State or Tribal wildlife agency, the Fish and Wildlife Service (FWS), or the National Marine Fisheries Service (NMFS). Many endangered and threatened species are found in well-defined areas or habitats. Such information is frequently known to State, Tribal, or Federal wildlife agencies. A list of FWS and NMFS offices is provided in Section II of this Addendum below.
- Contacting local/regional conservation groups or the State or Tribal Natural Heritage Centers (see Section III of this Addendum). State and local conservation groups may have location specific listed species information. The Natural Heritage Centers inventory species and their locations and maintain lists of sightings and habitats.
- Submitting a data request to a Natural Heritage Center. Many of these centers will provide site specific information on the presence of listed species in a project area. Some of these centers will charge a fee for researching data requests.
- Conducting a formal biological survey. Larger construction sites with extensive storm water discharges may choose to conduct biological surveys as the most effective way to assess whether species are located in the project area and whether there are likely adverse effects. Biological surveys are frequently performed by environmental consulting firms. A biological survey can be used to follow Steps Four through Six of these instructions.
- Conducting an environmental assessment under the National Environmental Policy Act (NEPA). Some construction activities may require environmental assessments under NEPA. Such assessments may indicate if listed species are in the project area. Coverage under the CGP does not trigger such an assessment because the permit does not regulate any dischargers subject to New Source Performance Standards under Section 306 of the Clean Water Act, and is thus statutorily exempted from NEPA. See CWA § 511(c). However, some construction activities might require review under NEPA because of Federal funding or other Federal involvement in the project.

If no species are found in the project area, an applicant is eligible for CGP coverage. Applicants must provide the necessary certification on the NOI form. If listed species are found in the project area, applicants must indicate the location and nature of this presence in the storm water pollution prevention plan and follow Step Four.

Step Four: Determine if Listed Species or Critical Habitat are likely to be Adversely Affected by the Construction Activity's Storm Water Discharges or Storm Water Discharge-related Activities.

To receive CGP coverage, applicants must assess whether their storm water discharges or storm water discharge-related activities are likely to adversely affect listed species or critical habitat. "Storm water discharge-related activities" include:

- activities which cause, contribute to, or result in point source storm water pollutant discharges, including but not limited to excavation, site development, grading, and other surface disturbance activities; and

Step Four: (Continued)

- measures to control storm water discharges including the siting, construction, operation of best management practices (BMPs) to control, reduce or prevent storm water pollution.

Potential adverse effects from storm water discharges and storm water discharge-related activities include:

- Hydrological. Storm water discharges may cause siltation, sedimentation or induce other changes in receiving waters such as temperature, salinity or pH. These effects will vary with the amount of storm water discharged and the volume and condition of the receiving water. Where a storm water discharge constitutes a minute portion of the total volume of the receiving water, adverse hydrological effects are less likely. Construction activity itself may also alter drainage patterns on a site where construction occurs which can impact listed species or critical habitat.
- Habitat. Excavation, site development, grading, and other surface disturbance activities from construction activities, including the installation or placement of storm water BMPs, may adversely affect listed species or their habitat. Storm water may drain or inundate listed species habitat.
- Toxicity. In some cases, pollutants in storm water may have toxic effects on listed species.

The scope of effects to consider will vary with each site. If the applicant is having difficulty in determining whether his or her project is likely to adversely effect a listed specie or critical habitat, then the appropriate office of the FWS, NMFS or Natural Heritage Center listed in Sections II and III of this Addendum should be contacted for assistance. If adverse effects are not likely, then the applicant should make the appropriate certification on the NOI form and apply for coverage under the permit. If adverse effects are likely, applicants must follow Step Five.

Step Five: Determine if Measures Can Be Implemented To Avoid any Adverse Effects

If an applicant makes a preliminary determination that adverse effects are likely, it can still receive coverage under Part I.B.3.e.(2)(a) of the CGP if appropriate measures are undertaken to avoid or eliminate the likelihood of adverse effects prior to applying for permit coverage. These measures may involve relatively simple changes to construction activities such as re-routing a storm water discharge to bypass an area where species are located, relocating BMPs, or by changing the “footprint” of the construction activity. Applicants may wish to contact the FWS and/or NMFS to see what appropriate measures might be suitable to avoid or eliminate the likelihood of adverse impacts to listed species and/or critical habitat. (See 50 CFR 402.13(b)). This can entail the initiation of informal consultation with the FWS and/or NMFS which is described in more detail in Step Six.

Step Five: (Continued)

If applicants adopt measures to avoid or eliminate adverse affects, they must continue to abide by those measures during the course of permit coverage. These measures must be described in the storm water pollution prevention plan and may be enforceable as permit conditions. If appropriate measures to avoid the likelihood of adverse effects are not available to the applicant, the applicant must follow Step Six.

Step Six: Determine if the Eligibility Requirements of Part I.B.3.e.(2)(b)-(d) Can Be Met.

Where adverse effects are likely, the applicant must contact the EPA and FWS/NMFS. Applicants may still be eligible for CGP coverage if any likely adverse effects can be addressed through meeting the criteria of Part I.B.3.e.(2)(b)-(d) of the permit. These criteria are as follows:

1. An ESA Section 7 Consultation is Performed for the Applicant's Activity (See Part I.B.3.e.(2)(b))

Formal or informal ESA § 7 consultation is performed with the FWS and/or NMFS which addresses the effects of the applicant's storm water discharges and storm water discharge-related activities on listed species and critical habitat. The formal consultation must result in either a "no jeopardy opinion" or a "jeopardy opinion" that identifies reasonable and prudent alternatives to avoid jeopardy which are to be implemented by the applicant. The informal consultation must result in a written concurrence by the Service(s) on a finding that the applicant's storm water discharge(s) and storm water discharge-related activities are not likely to adversely affect listed species or critical habitat (for informal consultation, see 50 CFR 402.13).

Most consultations are accomplished through informal consultation. By the terms of this permit, EPA has automatically designated applicants as non-Federal representatives for the purpose of conducting informal consultations. See Part I.B.3.e.(5) and 50 CFR 402.08 and 402.13. When conducting informal ESA § 7 consultation as a non-Federal representative, applicants must follow the procedures found in 50 CFR 402 of the ESA regulations.

Applicants must also notify EPA and the Services of their intention and agreement to conduct consultation as a non-Federal representative. Consultation may occur in the context of another Federal action at the construction site (e.g., where ESA § 7 consultation was performed for issuance of a wetlands dredge and fill permit for the project or where a NEPA review is performed for the project which incorporates a section 7 consultation). Any terms and conditions developed through consultations to protect listed species and critical habitat must be incorporated into the SWPPP. As noted above, applicants may, if they wish, initiate consultation with the Services at Step Five.

Whether ESA § 7 consultation must be performed with either the FWS, NMFS or both Services depends on the listed species which may be affected by the applicant's activity. In general, NMFS has jurisdiction over marine, estuarine, and anadromous species. Applicants should also be aware that while formal § 7 consultation provides protection from incidental takings liability, informal consultation does not.

Step Six: (Continued)

2. An Incidental Taking Permit Under Section 10 of the ESA is Issued for the Applicants Activity (See Part I.B.3.e.(2)(c))

The applicant's construction activities are authorized through the issuance of a permit under § 10 of the ESA and that authorization addresses the effects of the applicant's storm water discharge(s) and storm water discharge-related activities on listed species and critical habitat. Applicants must follow FWS and/or NMFS procedures when applying for an ESA Section 10 permit (see 50 CFR § 17.22(b)(1) (FWS) and § 222.22 (NMFS)). Application instructions for Section 10 permits for NMFS species can be obtained by 1) accessing the "Office of Protected Resources" sector of the NMFS Home Page at "<http://www.nmfs.gov>" or by contacting the National Marine Fisheries Service, Office of Protected Resources, Endangered Species Division, F/PR3, 1315 East-West Highway, Silver Spring, Maryland 20910; telephone (301) 713-1401, fax (301) 713-0376.

3. The Applicant Is Covered Under the Eligibility Certification of Another Operator for the Project Area (See Part I.B.3.e.(2)(d))

The applicant's storm water discharges and storm water discharge-related activities were already addressed in another operator's certification of eligibility under Part I.B.3.e.(2)(b), or (c) which also included the applicant's project area. By certifying eligibility under Part I.B.3.e.(2)(d), the applicant agrees to comply with any measures or controls upon which the other operator's certification under Part I.B.3.e.(2)(a), (b) or (c) was based. Certification under Part I.B.3.e.(2)(d) is discussed in more detail in Section I.A. of this addendum.

The applicant must comply with any terms and conditions imposed under the eligibility requirements of paragraphs I.B.3.e.(2)(a), (b), (c), (d) to ensure that its storm water discharges and storm water discharge-related activities are protective of listed species and/or critical habitat. Such terms and conditions must be incorporated in the project's SWPPP. If the eligibility requirements of Part I.B.3.e.(2)(a)-(d) cannot be met, then the applicant may not receive coverage under the CGP. Applicants should then consider applying to EPA for an individual permit.

II. LIST OF FISH AND WILDLIFE SERVICE OFFICES

A. U.S. FISH AND WILDLIFE SERVICE OFFICES APPLICABLE TO THIS PERMIT

National Website For Endangered Species Information

Endangered Species Home page:
<http://www.fws.gov/~r9endspp/endspp.html>

Regional, State, Field and Project Offices Applicable to This Permit.

Region Six - Regional Office Division Chief, Endangered Species U.S. Fish and Wildlife Service ARD-Ecological Services P.O. Box 25486, DFC Denver, CO 80225	
State, Field, and Project Offices in North Dakota Division Chief, Endangered Species U.S. Fish and Wildlife Service ARD-Ecological Services P.O. Box 25486, DFC Denver, CO 80225 Bismarck, ND 58501	State, Field, and Project Offices in South Dakota Field Supervisor U.S. Fish and Wildlife Service South Dakota Field Office 420 S. Garfield Ave., Suite 400 Pierre, SD 57501-5408

III. NATURAL HERITAGE CENTERS

The Natural Heritage Network comprises 85 biodiversity data centers throughout the Western Hemisphere. These centers collect, organize, and share data relating to endangered and threatened species and habitat. The network was developed to inform land-use decisions for developers, corporations, conservationists, and government agencies and is also consulted for research and educational purposes. The centers maintain a **Natural Heritage Network Control Server Website** (<http://www.heritage.tnc.org>) which provides website and other access to a large number of specific biodiversity centers. The center located in North Dakota and South Dakota are listed below:

North Dakota Natural Heritage Inventory
North Dakota Parks & Recreation Department
1835 Bismarck Expressway
Bismarck, ND 58504
701/328-5357 Fax: 701/328-5363

South Dakota Natural Heritage Data Base
SD Department of Game, Fish & Parks
Wildlife Division
523 E. Capitol Avenue
Pierre, SD 57501-3182
605/773-4227 Fax: 605/773-6245

IV. COUNTY LIST OF ENDANGERED AND THREATENED SPECIES NORTH DAKOTA AND SELECTED COUNTIES IN SOUTH DAKOTA

[The following list identifies federally listed or proposed U.S. species by State and County. It has been updated through September 1, 1997.]

Note: Species listed below with a status of both E and T are generally either endangered or threatened within the specified county. The assignment of two status designations for a species in a specific county is a function of the data set used to develop this list. For purposes of this permit, however, the obligation to assess the impact of storm water discharges on listed species does not vary based on which of the two statuses (e.g., endangered threatened) is assigned (see Addendum A Instructions). Designation of critical habitat (CH) does not mean that the county constitutes critical habitat, only that critical habitat has been designated for that species (see Addendum A Instructions).

State/County	Group name	Inverse name	Scientific name	Action/ Status
NORTH DAKOTA				
ADAMS	BIRDS	FALCON, PEREGRINE	Falco peregrinus	L,E
BARNES	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	L,T
		FALCON, PEREGRINE	Falco peregrinus	L,E
BENSON	BIRDS	CRANE, WHOOPING	Grus americana	L,E,CH
		FALCON, PEREGRINE	Falco peregrinus	L,E
		PLOVER, PIPING	Charadrius melodus	L,E,T
BILLINGS	BIRDS	CRANE, WHOOPING	Grus americana	L,E,CH
		EAGLE, BALD	Haliaeetus leucocephalus	L,T
		FALCON, PEREGRINE	Falco peregrinus	L,E
BOTTINEAU	BIRDS	CRANE, WHOOPING	Grus americana	L,E,CH
		EAGLE, BALD	Haliaeetus leucocephalus	L,T
		FALCON, PEREGRINE	Falco peregrinus	L,E
BOWMAN	BIRDS	FALCON, PEREGRINE	Falco peregrinus	L,E
BURKE	BIRDS	CRANE, WHOOPING	Grus americana	L,E,CH
		EAGLE, BALD	Haliaeetus leucocephalus	L,T
		FALCON, PEREGRINE	Falco peregrinus	L,E
		PLOVER, PIPING	Charadrius melodus	L,E,T
BURLEIGH	BIRDS	CRANE, WHOOPING	Grus americana	L,E,CH
		EAGLE, BALD	Haliaeetus leucocephalus	L,T
		FALCON, PEREGRINE	Falco peregrinus	L,E
		PLOVER, PIPING	Charadrius melodus	L,E,T
		TERN, INTERIOR (POPULATION) LEAST	Sterna antillarum	L,E
	FISHES	STURGEON, PALLID	Scaphirhynchus albus	L,E
CASS	BIRDS	FALCON, PEREGRINE	Falco peregrinus	L,E
CAVALIER	BIRDS	FALCON, PEREGRINE	Falco peregrinus	L,E
DICKEY	BIRDS	CRANE, WHOOPING	Grus americana	L,E,CH
		FALCON, PEREGRINE	Falco peregrinus	L,E
DIVIDE	BIRDS	CRANE, WHOOPING	Grus americana	L,E,CH
		FALCON, PEREGRINE	Falco peregrinus	L,E
		PLOVER, PIPING	Charadrius melodus	L,E,T
DUNN	BIRDS	CRANE, WHOOPING	Grus americana	L,E,CH
		EAGLE, BALD	Haliaeetus leucocephalus	L,T
		FALCON, PEREGRINE	Falco peregrinus	L,E
		PLOVER, PIPING	Charadrius melodus	L,E,T
		TERN, INTERIOR (POPULATION) LEAST	Sterna antillarum	L,E
	FISHES	STURGEON, PALLID	Scaphirhynchus albus	L,E
EDDY	BIRDS	CRANE, WHOOPING***	Grus americana	L,E,CH
		FALCON, PEREGRINE	Falco peregrinus	L,E
EMMONS	BIRDS	CRANE, WHOOPING	Grus americana	L,E,CH
		EAGLE, BALD	Haliaeetus leucocephalus	L,T
		FALCON, PEREGRINE	Falco peregrinus	L,E
		PLOVER, PIPING	Charadrius melodus	L,E,T
		TERN, INTERIOR (POPULATION) LEAST	Sterna antillarum	L,E
	FISHES	STURGEON, PALLID	Scaphirhynchus albus	L,E
FOSTER	BIRDS	CRANE, WHOOPING	Grus americana	L,E,CH

Key: L - Listed, P - Proposed, E - Endangered, T - Threatened, CH - Critical Habitat

IV. COUNTY/SPECIES LIST CONTINUED

The following list identifies federally listed or proposed U.S. species by State and County. It has been updated through September 1, 1997.

State/County	Group name	Inverse name	Scientific name	Action/ Status
GOLDEN VALLEY	BIRDS	FALCON, PEREGRINE	Falco peregrinus	L,E
		CRANE, WHOOPING	Grus americana	L,E,CH
		FALCON, PEREGRINE	Falco peregrinus	L,E
GRAND FORKS	BIRDS	FALCON, PEREGRINE	Falco peregrinus	L,E
GRANT	BIRDS	CRANE, WHOOPING	Grus americana	L,E,CH
		EAGLE, BALD	Haliaeetus leucocephalus	L,T
		FALCON, PEREGRINE	Falco peregrinus	L,E
GRIGGS	BIRDS	FALCON, PEREGRINE	Falco peregrinus	L,E
HETTINGER	BIRDS	CRANE, WHOOPING	Grus americana	L,E,CH
		EAGLE, BALD	Haliaeetus leucocephalus	L,T
		FALCON, PEREGRINE	Falco peregrinus	L,E
KIDDER	BIRDS	CRANE, WHOOPING	Grus americana	L,E,CH
		EAGLE, BALD	Haliaeetus leucocephalus	L,T
		FALCON, PEREGRINE	Falco peregrinus	L,E
LA MOURE	BIRDS	PLOVER, PIPING	Charadrius melodus	L,E,T
		CRANE, WHOOPING	Grus americana	L,E,CH
		FALCON, PEREGRINE	Falco peregrinus	L,E
LOGAN	BIRDS	CRANE, WHOOPING	Grus americana	L,E,CH
		EAGLE, BALD	Haliaeetus leucocephalus	L,T
		FALCON, PEREGRINE	Falco peregrinus	L,E
		PLOVER, PIPING	Charadrius melodus	L,E,T
		TERN, INTERIOR (POPULATION) LEAST	Sterna antillarum	L,E
	FISHES	STURGEON, PALLID	Scaphirhynchus albus	L,E
MCHENRY	BIRDS	FALCON, PEREGRINE	Falco peregrinus	L,E
MCINTOSH	BIRDS	FALCON, PEREGRINE	Falco peregrinus	L,E
MCKENZIE	BIRDS	FALCON, PEREGRINE	Falco peregrinus	L,E
MCLEAN	BIRDS	FALCON, PEREGRINE	Falco peregrinus	L,E
MERCER	BIRDS	CRANE, WHOOPING	Grus americana	L,E,CH
		EAGLE, BALD	Haliaeetus leucocephalus	L,T
		FALCON, PEREGRINE	Falco peregrinus	L,E
		PLOVER, PIPING	Charadrius melodus	L,E,T
		TERN, INTERIOR (POPULATION) LEAST	Sterna antillarum	L,E
MORTON	BIRDS	CRANE, WHOOPING	Grus americana	L,E,CH
		EAGLE, BALD	Haliaeetus leucocephalus	L,T
		FALCON, PEREGRINE	Falco peregrinus	L,E
		PLOVER, PIPING	Charadrius melodus	L,E,T
		TERN, INTERIOR (POPULATION) LEAST	Sterna antillarum	L,E
	FISHES	STURGEON, PALLID	Scaphirhynchus albus	L,E
MOUNTRAIL	BIRDS	CRANE, WHOOPING	Grus americana	L,E,CH
		EAGLE, BALD	Haliaeetus leucocephalus	L,T
		FALCON, PEREGRINE	Falco peregrinus	L,E
		PLOVER, PIPING	Charadrius melodus	L,E,T
		TERN, INTERIOR (POPULATION) LEAST	Sterna antillarum	L,E
	FISHES	STURGEON, PALLID	Scaphirhynchus albus	L,E
NELSON	BIRDS	FALCON, PEREGRINE	Falco peregrinus	L,E
OLIVER	BIRDS	CRANE, WHOOPING	Grus americana	L,E,CH
		EAGLE, BALD	Haliaeetus leucocephalus	L,T
		FALCON, PEREGRINE	Falco peregrinus	L,E
		PLOVER, PIPING	Charadrius melodus	L,E,T
		TERN, INTERIOR (POPULATION) LEAST	Sterna antillarum	L,E
	FISHES	STURGEON, PALLID	Scaphirhynchus albus	L,E
PEMBINA	BIRDS	FALCON, PEREGRINE	Falco peregrinus	L,E
PIERCE	BIRDS	CRANE, WHOOPING	Grus americana	L,E,CH
		FALCON, PEREGRINE	Falco peregrinus	L,E
		PLOVER, PIPING	Charadrius melodus	L,E,T
RAMSEY	BIRDS	FALCON, PEREGRINE	Falco peregrinus	L,E
RANSOM	BIRDS	FALCON, PEREGRINE	Falco peregrinus	L,E
	PLANTS	ORCHID, WESTERN PRAIRIE FRINGED	Platanthera praeclara	L,T

Key: L - Listed, P - Proposed, E - Endangered, T - Threatened, CH - Critical Habitat

IV. COUNTY/SPECIES LIST CONTINUED

The following list identifies federally listed or proposed U.S. species by State and County. It has been updated through September 1, 1997.

State/County	Group name	Inverse name	Scientific name	Action/ Status
RENVILLE	BIRDS	CRANE, WHOOPING	Grus americana	L,E,CH
		EAGLE, BALD	Haliaeetus leucocephalus	L,T
		FALCON, PEREGRINE	Falco peregrinus	L,E
RICHLAND	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	L,T
		FALCON, PEREGRINE	Falco peregrinus	L,E
	PLANTS	ORCHID, WESTERN PRAIRIE FRINGED	Platanthera praeclara	L,T
ROLETTE	BIRDS	CRANE, WHOOPING	Grus americana	L,E,CH
		FALCON, PEREGRINE	Falco peregrinus	L,E
SARGENT	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	L,T
		FALCON, PEREGRINE	Falco peregrinus	L,E
SHERIDAN	BIRDS	CRANE, WHOOPING	Grus americana	L,E,CH
		FALCON, PEREGRINE	Falco peregrinus	L,E
		PLOVER, PIPING	Charadrius melodus	L,E,T
SIOUX	BIRDS	CRANE, WHOOPING	Grus americana	L,E,CH
		FALCON, PEREGRINE	Falco peregrinus	L,E
		PLOVER, PIPING	Charadrius melodus	L,E,T
		TERN, INTERIOR (POPULATION) LEAST	Sterna antillarum	L,E
	FISHES	STURGEON, PALLID	Scaphirhynchus albus	L,E
SLOPE	BIRDS	CRANE, WHOOPING	Grus americana	L,E,CH
		EAGLE, BALD	Haliaeetus leucocephalus	L,T
		FALCON, PEREGRINE	Falco peregrinus	L,E
STARK	BIRDS	CRANE, WHOOPING	Grus americana	L,E,CH
		FALCON, PEREGRINE	Falco peregrinus	L,E
STEELE	BIRDS	FALCON, PEREGRINE	Falco peregrinus	L,E
STUTSMAN	BIRDS	CRANE, WHOOPING	Grus americana	L,E,CH
		EAGLE, BALD	Haliaeetus leucocephalus	L,T
		FALCON, PEREGRINE	Falco peregrinus	L,E
		PLOVER, PIPING	Charadrius melodus	L,E,T
TOWNER	BIRDS	CRANE, WHOOPING	Grus americana	L,E,CH
		FALCON, PEREGRINE	Falco peregrinus	L,E
TRAILL	BIRDS	FALCON, PEREGRINE	Falco peregrinus	L,E
WALSH	BIRDS	FALCON, PEREGRINE	Falco peregrinus	L,E
WARD	BIRDS	CRANE, WHOOPING	Grus americana	L,E,CH
		EAGLE, BALD	Haliaeetus leucocephalus	L,T
		FALCON, PEREGRINE	Falco peregrinus	L,E
		PLOVER, PIPING	Charadrius melodus	L,E,T
WELLS	BIRDS	CRANE, WHOOPING	Grus americana	L,E,CH
		FALCON, PEREGRINE	Falco peregrinus	L,E
WILLIAMS	BIRDS	CRANE, WHOOPING	Grus americana	L,E,CH
		FALCON, PEREGRINE	Falco peregrinus	L,E
		PLOVER, PIPING	Charadrius melodus	L,E,T
SOUTH DAKOTA				
CAMPBELL	BIRDS	CRANE, WHOOPING	Grus americana	L,E,CH
		FALCON, PEREGRINE	Falco peregrinus	L,E
		PLOVER, PIPING	Charadrius melodus	L,E,T
		TERN, INTERIOR (POPULATION) LEAST	Sterna antillarum	L,E
CORSON	BIRDS	CRANE, WHOOPING	Grus americana	L,E,CH
		EAGLE, BALD	Haliaeetus leucocephalus	L,T
		FALCON, PEREGRINE	Falco peregrinus	L,E
		PLOVER, PIPING	Charadrius melodus	L,E,T
		TERN, INTERIOR (POPULATION) LEAST	Sterna antillarum	L,E
	FISHES	STURGEON, PALLID	Scaphirhynchus albus	L,E
	MAMMALS	FERRET, BLACK-FOOTED	Mustela nigripes	L,E
DEWEY	BIRDS	CRANE, WHOOPING	Grus americana	L,E,CH
		EAGLE, BALD	Haliaeetus leucocephalus	L,T
		PLOVER, PIPING	Charadrius melodus	L,E,T

Key: L - Listed, P - Proposed, E - Endangered, T - Threatened, CH - Critical Habitat

State/County	Group name	Inverse name	Scientific name	Action/ Status
PERKINS	FISHES	TERN, INTERIOR (POPULATION) LEAST	<i>Sterna antillarum</i>	L,E
		STURGEON, PALLID	<i>Scaphirhynchus albus</i>	L,E
		FERRET, BLACK-FOOTED	<i>Mustela nigripes</i>	L,E
	BIRDS	CRANE, WHOOPING	<i>Grus americana</i>	L,E,CH
		EAGLE, BALD	<i>Haliaeetus leucocephalus</i>	L,T
		FALCON, PEREGRINE	<i>Falco peregrinus</i>	L,E
	MAMMALS	FERRET, BLACK-FOOTED	<i>Mustela nigripes</i>	L,E
		CRANE, WHOOPING	<i>Grus americana</i>	L,E,CH
		EAGLE, BALD	<i>Haliaeetus leucocephalus</i>	L,T
		FALCON, PEREGRINE	<i>Falco peregrinus</i>	L,E
WALWORTH	BIRDS	PLOVER, PIPING	<i>Charadrius melodus</i>	L,E,T
		TERN, INTERIOR (POPULATION) LEAST	<i>Sterna antillarum</i>	L,E
		CRANE, WHOOPING	<i>Grus americana</i>	L,E,CH
	BIRDS	EAGLE, BALD	<i>Haliaeetus leucocephalus</i>	L,T
		FALCON, PEREGRINE	<i>Falco peregrinus</i>	L,E
		CRANE, WHOOPING	<i>Grus americana</i>	L,E,CH
	BIRDS	EAGLE, BALD	<i>Haliaeetus leucocephalus</i>	L,T
		FALCON, PEREGRINE	<i>Falco peregrinus</i>	L,E
		CRANE, WHOOPING	<i>Grus americana</i>	L,E,CH
		EAGLE, BALD	<i>Haliaeetus leucocephalus</i>	L,T
ZIEBACH	BIRDS	FALCON, PEREGRINE	<i>Falco peregrinus</i>	L,E
		CRANE, WHOOPING	<i>Grus americana</i>	L,E,CH
		EAGLE, BALD	<i>Haliaeetus leucocephalus</i>	L,T
	BIRDS	TERN, INTERIOR (POPULATION) LEAST	<i>Sterna antillarum</i>	L,E
		CRANE, WHOOPING	<i>Grus americana</i>	L,E,CH
		EAGLE, BALD	<i>Haliaeetus leucocephalus</i>	L,T
	BIRDS	FALCON, PEREGRINE	<i>Falco peregrinus</i>	L,E
		CRANE, WHOOPING	<i>Grus americana</i>	L,E,CH
		EAGLE, BALD	<i>Haliaeetus leucocephalus</i>	L,T
		FALCON, PEREGRINE	<i>Falco peregrinus</i>	L,E

ADDENDUM B - HISTORIC PROPERTIES (RESERVED)

Instructions related to historic preservation have not been included in the permit at this time. EPA may modify the permit to include such provisions at a later date. This does not relieve applicants or permittees of their responsibility to comply with applicable State, Tribal or local laws for the protection of historic properties.

PERMIT NO. NDR10*##I

PAGE NO. 45

ADDENDUM C

ADDENDUM C - NOTICE OF INTENT FORM

1st Page of NOI form

PERMIT NO. NDR10*##I

PAGE NO. 47

ADDENDUM D

ADDENDUM D - NOTICE OF TERMINATION FORM

1st Page of NOT Form

